APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,284	03/01/2002	Thomas J. Davis	47440-046000	2059

7590 10/26/2004	EXAMINER
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ART UNIT	PAPER NUMBER
2178	

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>01 March 2002</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-20</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-20</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/29/02</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to communications: the application filed on 3/1/02, and

the IDS filed on 8/29/02.

2.   Claims 1-20 are pending in the case. Claims 1 and 11 are independent claims.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

.4.   Claims 1-3, 6-8 are rejected under 35 U.S.C. 101 because the claimed invention

is directed to non-statutory subject matter. The method of providing a gauge table as in

these claims can be performed on paper, and thus is not in the technological art.

It is suggested that Applicants add the language "computer-implemented" before the

word "method" (line 1) in the preamble of independent claim 1 to overcome the 101

issue in these claims.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

7.   Claims 1-2, 4-10, 11-12, 14-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Nesser et al. (US Pat No. 6,782,339 B2, 8/24/04, filed 8/7/01) in view

of Conner et al. (US Pat No. 6,718,515 B1, 4/6/04, filed 12/7/99).

Regarding independent claim 1, Nesser discloses:

- a table that provides data for the gauge to calculate the volume of the tank (col 7,

  lines 35-45; col 5, line 33 to col 6, line 47)

- transmitting the result of the calculated liquid volumes via telemetry to a remote

  device of user's choosing (col 2, lines 43-57)

Nesser does not disclose that:

- generating gauge table data for the gauge table according to a requested format

- providing the gauge table with the specific format as requested

Conner discloses:

- receiving a request to provide a table, said request including a requested format
  to provide said table (col 3, lines 22-33: "a method is operative at a server *in
  response to a client browser request* for *generating a table having* dynamic data")

- generating table data for said table (figure 4, col 3, lines 22-33: "a method is
  operative at a server *in response to a client browser request* for *generating a
  table having* dynamic data")

- converting said table to said requested format (figure 4, #400, #402; col 5, lines
  10-50)

- providing said table via said requested format (col 3, lines 22-33:"the dynamic
  data extracted from the given data object ... formatted into the table according to
  the table format object. The *resulting table with dynamic data is then served
  back to the requesting client browser*")

It would have been obvious to one of ordinary skill in the art at the time of the invention
was made to have combined Conner into Nesser for the following reason. Conner
discloses providing a format for a table upon a request of the table format thus
motivating to incorporate into the lookup table containing data for the gauge to calculate
the liquid volume in Nesser for effectively rendering a table containing gauge
information, which is considered as equivalent to a gauge table, with a requested format
to users.

Regarding claim 2, which is dependent on claim 1, Nesser discloses checking said
gauge table for errors (col 9, lines 1-12: checking gauge information for errors; since the

gauge information is retrieved from the lookup table, checking gauge information for errors implies checking gauge table for errors).

Regarding claims 4 and 5, which are dependent on claim 1, Nesser does not disclose that the request format is via computer network and Internet.

Conner discloses that the request format is via a computer network (figure 1) and via the Internet (col 5, lines 10-20: *generating an HTML table format* in *response to a client request* shows that said request is performed via the Internet).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have combined Conner into Nesser since Conner discloses that the request format is via a computer network and Internet, thus motivating to incorporate into Nesser for performing the request format via a computer network and Internet to provide a wide range of communicating between the service providers and users as well as transmitting the gauge data to users.

Regarding claim 6, which are dependent on claim 1, Nesser and Conner do not disclose that the gauge table includes innage gauge table data and outage gauge table data. Instead, Nesser discloses that the information in the look up table is for calculating the liquid volume in a tank and the vaporized volume of liquid in a tank (col 7, lines 35-67). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified Nesser to incorporate the innage data and the outage data in the gauge table for the following reason. The calculated liquid volume in the tank

suggests the current volume data of the tank which is equivalent to the innage data.

The vaporized volume of liquid in a tank suggests the removed volume data from the

tank which is equivalent to the outage data. Therefore, the information in the lookup

table in Nesser does suggest the innage data and the outage data.

Regarding claim 7, which are dependent on claim 1, Nesser does not disclose that the

request includes information about the requestor.

Conner discloses that the request includes information about the requestor (**figure 1**:

since the response is returned to the client browser, which is the requestor, the client

request when sent to the server, must include the requestor information so that the

response is returned to the right client).

It would have been obvious to one of ordinary skill in the art at the time of the invention

was made to have combined Conner into Nesser since Conner includes the information

about the requestor in the request providing the advantage to incorporate into Nesser

for having the requested table returned to a proper requestor based on the information

included in the sending request.

Regarding claim 8, which are dependent on claim 1, Nesser does not disclose

converting said table data to said requested format is accomplished via a mapping

program.

Conner discloses that converting said table data to said requested format is

accomplished via a mapping program (col 6, lines 23-35, col 7, lines 56-62; col 8, lines

1-11: formatting raw data so that the data has a proper type to be populated into a table

properly shows mapping the formatted data and the data type of the table).

It would have been obvious to one of ordinary skill in the art at the time of the invention

was made to have combined Conner into Nesser for the following reason. Conner has

the ability of converting the table to a requested format via a mapping program providing

the advantage to include in Nesser for effectively rendering a suitable format for a table

according to a user request.

Regarding claims 9 and 10, which are dependent on claim 1, Nesser does not disclose

that said request is made via a computer network.

Conner discloses that said request is made via a computer network (figure 1) and via

the Internet (col 5, lines 10-20: *generating an HTML table* in *response to a client request*

shows that said request is performed via the internet).

It would have been obvious to one of ordinary skill in the art at the time of the invention

was made to have combined Conner into Nesser since Conner discloses that the

request format is via a computer network and Internet thus motivating to incorporate into

Nesser for performing the request format via a computer network and Internet to provide

a wide range of communicating between the service providers and users and

transmitting the gauge data to users.

Claims 11-12, 14-20 are for a system of method claims 1-2, 4-10, and are rejected

under the same rationale.

8.   Claim 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Nesser in view of Conner as applied to claim 1 above, and further in view of Sheridan et

al. (US Pat No. 6,725,032 B1, 4/20/04, filed 10/8/99).

Regarding claim 3, which is dependent on claim 1, Nesser and Conner do not disclose

generating an error report.

Sheridan discloses:

- generating an error report of a table (col 7, lines 25-49; col 8, lines 34-42; col 9,

  lines 40-49; col 10, lines 61-65)

It would have been obvious to one of ordinary skill in the art at the time of the invention

was made to have combined Sheridan into Nesser and Conner since Sheridan

discloses generating the error report of a table thus motivating to incorporate into

Nesser and Conner to generating an error report for gauge table in Nesser.

Claim 13 is for a system of method claim 3, and is rejected under the same rationale.

Conclusion

9.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Morton, Jr. (US Pat No. 5,050,004, 9/17/91).

Moulder (US Pat No. 6,213,135 B1, 4/10/01, filed 5/25/00).

Furusho (US Pat No. 6,721,751 B1, 4/13/04, filed 11/30/01).

Holloway et al. (US Pat No. 6,176,883 B1, 1/23/01, filed 11/24/97).

Scott (US Pat No. 6,675,059 B2, 1/6/04, filed 12/19/01).

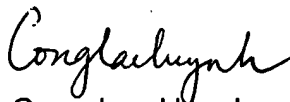Kitagawa (US Pat App Pub No. 2002/0013863 A1, 1/31/02, filed 5/23/01).

Hashem et al. (US Pat App Pub No. 2002/0133624 A1, 9/19/02, filed 1/16/01).

Mei, *Accurate, Automatic Temperature Measurement Reduces Tank Volume Errors*, Oil & Gas Journal, vol. 90, Iss. 29, pg. 105, 3 pgs.

10.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cong-Lac Huynh whose telephone number is 571-272-4125. The examiner can normally be reached on Mon-Fri (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4125.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cong-Lac Huynh
Examiner
Art Unit 2178
10/14/04